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Before the
Federal Communications Commission
Washington, D C 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Local Exchange Carriers' Rates, Terms, and)

Conditions for Expanded Interconnection)

Through Virtual Collocation for Special)

Access and Switched Transport)

CC Docket No. 94-97

Phase I

DOCKET FILE COPY ORIGINAL

MOTION TO VACATE PRESCRIPTION

Bell Atlantic¹ respectfully asks the Commission to vacate the existing prescribed overhead loadings for virtual collocation services. Instead, the Commission should not prescribe specific numerical overhead loadings, but, rather, it should flexibly apply its existing policy and require collocation overheads to be no higher than those in effect at the time of filing for comparable access services.

In its order prescribing rates for virtual collocation services, the Commission applied its previously-announced policy for determining overhead loading factors. That policy is that "LECs may not recover a greater share of overhead costs in their rates for virtual collocation services than they recover in rates for 'comparable services,' absent

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

justification.”² It found that point-to-point DS1 and DS3 access services are “comparable” to DS1 and DS3 collocation services, because such access services “face actual or potential competition” from collocators and use similar equipment to that used in providing collocation services.³ Moreover, the Commission determined that “discounted volume and term DS1 and DS3 services should be included within the scope of comparable services because they are services with which interconnectors compete in the interstate service market.”⁴

At the time of the R&O, Bell Atlantic offered only month-to-month collocation services. Accordingly, the Commission appeared to calculate its overhead loading prescription based upon the lowest factor in the effective special access tariffs for the same bit rate service.

On June 1, 1995, however, Bell Atlantic filed a revised collocation tariff which, at collocator customers’ request, introduced three and five-year term pricing plans, thereby changing the tariff significantly from the filing that was subject to the prescription. In addition, the comparable access tariff rates have changed, and, therefore, the effective overhead loadings for comparable DS1 and DS3 differ somewhat from those on which the prescription is based. As a result, the prescribed rates no longer have any direct correlation to the “comparable” access services, and the underpinning of the prescription

² *Local Exchange Carriers’ Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, Report and Order*, 10 FCC Rcd 6375, ¶ 5 (1995) (“R&O”).

³ *Id.* at ¶ 40.

⁴ *Id.* at ¶ 45.

fails. Under these circumstances, the Commission should vacate the current prescription as no longer valid.

Once it vacates the prescription, it would not be reasonable for the Commission simply to replace one set of fixed loading factors with another set derived from the access tariff rates and underlying costs that happen to be effective at the time. Such a fixed prescription would soon place the Commission in the same dilemma as at present. The comparable access tariffs will change by mid-1996, if not before, and with them the loading factors for DS1 and DS3 services. In addition, Bell Atlantic is preparing, in response to collocators' requests, additional services and features, including multiple circuit (i.e., volume) pricing plans. The loadings for some of these services in the comparable access tariff differ from the current prescription and Bell Atlantic does not wish to risk a similar dispute regarding those services as has occurred in connection with term plans, in view of the fact that the Commission treats term and volume plans the same in defining "comparable services."⁵ Accordingly, Bell Atlantic will delay filing those additional pricing plans that may be affected by the overhead loading prescription until the issue is resolved.

Because the uncertainties regarding what overhead loadings may be applied to collocation services, and not wishing to place access customers at a disadvantage vis-à-vis collocators, Bell Atlantic is withdrawing its tariff that offers term pricing plans.⁶ Once the Commission adopts a revised overhead loading factor methodology that ensures that

⁵ *Id.* at ¶ 45.

⁶ The Commission's staff has informed Bell Atlantic that the tariff will otherwise be suspended for five months.

collocators are treated in a comparable manner to access customers, Bell Atlantic will promptly file term and volume plans to meet collocator-customer requests. Expeditious consideration of this motion is requested, in order that Bell Atlantic may give collocators the lower rates that these plans will offer

Respectfully Submitted,

**The Bell Atlantic Telephone
Companies**

By their Attorney

Edward D. Young, III
James G. Pachulski
Of Counsel


Lawrence W. Katz

1320 North Court House Road
Eighth Floor
Arlington, Virginia 22201
(703) 974-4862

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